

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

against

ALBERTO WILLIAM VILAR, a/k/a "Albert  
Vilar," and GARY ALAN TANAKA,

Defendants.

S3 05 Cr. 621 (KMK)

ECF CASE

**DECLARATION OF JESSICA L. MARGOLIS IN SUPPORT OF DEFENDANT  
GARY TANAKA'S MOTION FOR A *FRANKS* HEARING**

I, Jessica L. Margolis, declare as follows:

I am an attorney associated with the firm of Wilson Sonsini Goodrich & Rosati, Professional Corporation, attorneys for Defendant Gary Alan Tanaka. I am admitted to practice before the courts of the State of New York and before the United States District Courts for the Southern and Eastern Districts of New York. I respectfully submit this declaration in support of Mr. Tanaka's Motion for a *Franks* Hearing. I have personal knowledge of the facts set forth in this declaration.

1. A true and correct copy of the Search Warrant On Written Affidavit, captioned United States v. Premises Known and Described as the Offices of Amerindo Investment Advisors Inc., Located at 399 Park Avenue, 22<sup>nd</sup> Floor, New York, New York, dated May 25, 2005, is attached hereto as Exhibit A.

2. A true and correct copy of the Affidavit for Search Warrant sworn to by United States Postal Inspector Cynthia M. Fraterrigo, dated May 25, 2005, is attached hereto as Exhibit B.

3. A true and correct copy of the criminal complaint against Alberto William Vilar, a/k/a Albert Vilar, dated May 25, 2005, is attached hereto as Exhibit C.

4. A true and correct copy of the criminal complaint against Gary Alan Tanaka, dated May 25, 2005, is attached hereto as Exhibit D.

5. A true and correct copy of the grand jury subpoena served on Amerindo Investment Advisors Inc. on May 26, 2005, is attached hereto as Exhibit E.

6. A true and correct copy of the subpoena served on Amerindo Investment Advisors Inc. by the Securities and Exchange Commission on or about May 26, 2005, is attached hereto as Exhibit F.

7. True and correct copies of excerpts from the transcript of the hearing held on December 14, 2005, are attached hereto as Exhibit G.

8. True and correct copies of excerpts from the transcript of the hearing held on March 9, 2006, are attached hereto as Exhibit H.

9. True and correct copies of excerpts from the transcript of the hearing held on May 31, 2006, are attached hereto as Exhibit I.

10. True and correct copies of excerpts from the transcript of the hearing held on July 7, 2006, are attached hereto as Exhibit J.

11. True and correct copies of excerpts from the transcript of the hearing held on July 10, 2006, are attached hereto as Exhibit K.

12. True and correct copies of excerpts from the transcript of the hearing held on August 8, 2006, are attached hereto as Exhibit L.

13. True and correct copies of excerpts from the transcript of the hearing held on August 9, 2006, are attached hereto as Exhibit M.

14. A true and correct copy of the Declaration of Paul Marcus, dated October 27, 2005, and submitted in support of Mr. Tanaka's opposition to the Government's application to exclude additional time under the Speedy Trial Act, is attached hereto as Exhibit N.

15. A true and correct copy of a Bloomberg article authored by Bob Van Voris, dated September 12, 2005, is attached hereto as Exhibit O.

16. True and correct copies of documents provided by the Government to Mr. Tanaka's counsel, titled "Client Confirmations," are attached hereto as Exhibit P. In an abundance of caution, specific bank account information has been redacted from these documents .

17. A true and correct copy of a document allegedly seized from the Cadogan Tate facility in the United Kingdom, and subsequently provided by the Government to Mr. Tanaka's counsel upon Mr. Tanaka's request, titled "Lily Cates Withdrawals," is attached hereto as Exhibit Q.

18. True and correct copies of documents provided by Lisa Mayer to the Government, including correspondence between Amerindo Investment Advisors Inc. and the Mayer family between December 26, 2000 and January 4, 2001, are attached hereto as Exhibit R.

19. A true and correct copy of a letter from Susan C. Wolfe dated May 26, 2006, is attached hereto as Exhibit S.

20. A true and correct copy of the Report of Robert Knuts, prepared in connection with his appointment as Monitor for Amerindo Investment Advisors Inc. in the civil action entitled *SEC v. Amerindo Invest. Advisors Inc., et al.*, 05 Civ. 5231 (LTS), is attached hereto as Exhibit T. While the Report was publicly filed, in order to give the parties an opportunity to request that the exhibits be filed under seal, Mr. Knuts did not file the exhibits to the Report with the Clerk of the Court (though he distributed copies to the Court and all parties). Although applications to file

some or all of the exhibits under seal were made by defendants in the civil action, Judge Swain stayed the civil action before the applications were fully submitted. As such, the issue of whether the exhibits should be sealed has not yet been decided. Accordingly, in an abundance of caution, Mr. Tanaka has not filed the exhibits to the Report with the Clerk of Court in connection with the instant motion. Courtesy copies of the Report and exhibits have been submitted to the Court under separate cover, and have been served on the parties to this proceeding (all of which are either parties to or intervenors in the civil action).

21. A true and correct copy of the Form ADV filed by Amerindo U.S. with the SEC on or about July 15, 2004, is attached hereto as Exhibit U.

I declare under penalty of perjury that the foregoing is true and correct. Executed in New York, New York on August 30, 2006.

  
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Jessica L. Margolis